

Message Text

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ACTION IO-14

INFO OCT-01 EUR-25 ISO-00 CIAE-00 DODE-00 NSAE-00 NSCE-00

SSO-00 USIE-00 INRE-00 PM-07 H-03 INR-11 L-03 NSC-07

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FROM USEEL-ICAO ASSEMBLY

E. O. 11652: GDS

TAGS: PGOR, EAIR, ICAO

SUBJ: 21ST ICAO ASSEMBLY: AMENDMENT TO RULE 54

1. EXECUTIVE COMMITTEE AT REQUEST FRENCH DEL PASSED AGENDA ITEM 14 ON AMENDMENT ASSEMBLY PROCEDURE RULE 54 TO LEGAL COMMISSION. THUS LEGAL EXPERTS WILL DISCUSS FRENCH AND CHILEAN PROPOSALS THIS ITEM ALONG WITH COUNCIL RECOMMENDATION.

2. FRENCH HAVE INFORMED USDEL THAT THEIR PROPOSAL NOT CORRECTLY TRANSLATED. (SEE A21-WP/54) PHRASE "FUNDAMENTAL QUESTIONS" SHOULD READ "QUESTIONS OF SUBSTANCE".

3. UK DEL (GREENE OF DTI) APPROACHED USDEL TO EXPRESS CONCERN THAT (1) MATTER NOW IN LEGALCOMMISSION WHERE ISSUES WILL BE READILY SEEN AND (2) THAT FRENCH PROPOSAL MAY HAVE TWO-STAGE INTENTION: LATTER CONCERN EXPRESSED ON FOLLOWING LINES: ONCE DISCUSSION FOCUSES ISSUE OF AMENDMENT PROCEDURE TO CONVENTION, IT COULD NATURALLY MOVE ON TO DRAFTING OF OTHER AVIATION CONVENTIONS AND SUGGEST SAME RULES OF PROCEDURE APPLY TO BOTH ASSEMBLY PROCEDURE AND DIPLOMATIC CONFERENCE PROCEDURE.

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DEPARTMENT WILL RECALL THAT BRITISH, WITHOUT FULL APPRECIATION

OF CONSEQUENCES, AGREED TO FRENCH PROPOSAL THAT 1973 ROME DIPLOMATIC CONFERENCE ON AIR LAW USE SAME RULES OF PROCEDURE AS ASSEMBLY. (IN ASSEMBLY, ABSTENTIONS AND ABSENCES COUNT AS NEGATIVE VOTES WHEREAS IN DIPLOMATIC CONFERENCES MAJORITY IS COUNTED ON BASIS STATES PRESENT AND VOTING.) BRITISH DEL PRIOR TO AND AT ROME ADMITTED TO USDEL IN ROME THAT THEY HAD ERRED AND NOW ARE CONCERNED THAT ROME PRECEDENT BE RECOMMENDED BY LEGAL COMMISSION WHICH IS COMPOSED OF MANY, IF NOT MAJORITY, OF LAWYERS WHO PRESENT AT ROME AND THUS AWARE OF ISSUE.

4. IN LIGHT ABOVE DEVELOPMENTS, IE, REFERENCE TO LEGAL COMMISSION AND DANGER APPLICATION FRENCH FORMULA TO DIPLOMATIC CONFERENCES, USDEL RECOMMENDS AND WILL PROCEED AS FOLLOWS, UNLESS INSTRUCTED OTHERWISE:

A) US WILL WORK WITH UK TO ATTEMPT TO HAVE FRENCH PROPOSAL AS CORRECTED QUICKLY ADOPTED IN LEGAL COMMISSION AS REFLECTING PROPER INTERPRETATION OF PRESENT RULES OF PROCEDURE AND INTENT OF CONVENTION. RESULT WOULD HOPEFULLY BE SINGLE RECOMMENDATION TO ASSEMBLY PLENARY WITH NO REFERENCE TO APPLICATION AT DIPLOMATIC CONFERENCES.

B) SHOULD IT APPEAR THAT EITHER COUNCIL FORMULATION ON CHILEAN PROPOSAL GAINING ACCEPTANCE, DEL WILL CONSIDER PUTTING US DRAFT INTO HOPPER IN EFFORT TO HAVE ALL SUBMITTED BACK TO COUNCIL. UKDEL CONCURS THIS TACTIC AND HAS INDICATED IT WILL ACTIVELY SUPPORT.

C) SHOULD FRENCH PROPOSAL FAIL IN LEGAL COMMISSION BY LARGE MARGIN AND REFERAL TO COUNCIL RECEIVE NO SUPPORT, DEL WILL GO ALONG WITH MAJORITY AND MAKE NO FURTHER ATTEMPT WHEN LEGAL COMMISSION SENDS RECOMMENDATION TO EXECUTIVE COMMITTEE TO PRESS FOR REFERRAL TO COUNCIL. THIS LATTER TACTIC TAKES INTO ACCOUNT THAT FURTHER DISCUSSION OF ISSUE MAY OPEN POSSIBILITY OF CONCERN EXPRESSED PARA. 3 ABOVE AND THAT BEST TACTIC WOULD BE TO GET ITEM ROLLING AS EXPEDITIOUSLY AS POSSIBLE.

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